



Department of Justice

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United States Attorney Criticizes State Court Justice's "Christmas Present"

Comment By United States Attorney Michael J. Sullivan
Regarding Filing in United States v. Matthew West

Last night, my office filed a pleading in our prosecution of Matthew West, in connection with his upcoming sentencing. Because of his prior convictions, including for crimes of violence and drug offenses, in Massachusetts and Virginia, West qualified as a career offender under the sentencing regime established by Congress. In an outrageous maneuver, West's attorney, without notification to the Suffolk District Attorney's office, obtained from a Massachusetts District Court Justice, on the morning of West's sentencing in federal court, an order vacating his six year old conviction in Massachusetts court for assault and battery.

We have obtained a tape recording of the discussion between the attorney and the state court judge and we have filed a transcript of the proceedings in federal district court as a part of our effort to assure that West receives an appropriate and just sentence within the sentencing system established by Congress. That transcript demonstrates:

- that the Justice, in vacating West's six year old conviction, acknowledged that she was extending to West a "Christmas present";
- that the Justice first discussed with West's counsel that she had just recently "got turned over [on appeal] on doing this": vacating a conviction so that it would not count for federal immigration proceedings;
- that the Justice determined to vacate West's state conviction, not because of problems with the merits of that conviction, but only so that it could not be evaluated by the federal court in determining his career offender status; and
- that the Justice vacated the conviction with the express understanding that after his federal court sentencing, West would again plead guilty to the state charge and would thereafter be sentenced to time served.

This hearing was conducted without counsel for the Suffolk District Attorney's office.

This conduct by the state judge calls into question the integrity of judicial proceedings and provides the appearance that a state court judge has, by giving a defendant a "Christmas present", participated in an effort to keep a federal court judge from considering, in exercising his responsibility to justly sentence a defendant in federal court, a proper and valid prior state court conviction. It is deeply troubling that a judge would do this knowing that the defendant, after the federal sentencing has been completed, will once again plead guilty to that same state charge.

The Commonwealth has filed pleadings in state court seeking to vacate the state judge's order. We support that effort, and we have brought all of these facts to the attention of the federal district court judge.